

(i) The number of Stage 2 airplanes returned to service in the United States pursuant to §91.855(f);

(ii) The number of Stage 2 airplanes purchased pursuant to §91.855(g); and

(iii) Any U.S. operator base level acquired with a Stage 2 airplane transferred from another person under §91.863.

(2) The base level of a U.S. operator shall be decreased by the amount of U.S. operator base level transferred with the corresponding number of Stage 2 airplanes to another person under §91.863.

(b) Foreign air carriers. The base level of a foreign air carrier is equal to the number of owned or leased Stage 2 airplanes that were listed on that carrier's U.S. operations specifications on any one day during the period January 1, 1990, through July 1, 1991, plus or minus any adjustments to the base levels made pursuant to paragraphs (b) (1) and (2).

(1) The base level of a foreign air carrier shall be increased by the amount of foreign air carrier base level acquired with a Stage 2 airplane from another person under §91.863.

(2) The base level of a foreign air carrier shall be decreased by the amount of foreign air carrier base level transferred with a Stage 2 airplane to another person under §91.863.

(c) New entrants do not have a base level.

[Doc. No. 26433, 56 FR 48659, Sept. 25, 1991; 56 FR 51167, Oct. 10, 1991]

#### **§ 91.863 Transfers of Stage 2 airplanes with base level.**

(a) Stage 2 airplanes may be transferred with or without the corresponding amount of base level. Base level may not be transferred without the corresponding number of Stage 2 airplanes.

(b) No portion of a U.S. operator's base level established under §91.861(a) may be used for operations by a foreign air carrier. No portion of a foreign air carrier's base level established under §91.861(b) may be used for operations by a U.S. operator.

(c) Whenever a transfer of Stage 2 airplanes with base level occurs, the transferring and acquiring parties shall, within 10 days, jointly submit

written notification of the transfer to the FAA, Office of Environment and Energy. Such notification shall state:

(1) The names of the transferring and acquiring parties;

(2) The name, address, and telephone number of the individual responsible for submitting the notification on behalf of the transferring and acquiring parties;

(3) The total number of Stage 2 airplanes transferred, listed by airplane type, model, series, and serial number;

(4) The corresponding amount of base level transferred and whether it is U.S. operator or foreign air carrier base level; and

(5) The effective date of the transaction.

(d) If, taken as a whole, a transaction or series of transactions made pursuant to this section does not produce an increase or decrease in the number of Stage 2 airplanes for either the acquiring or transferring operator, such transaction or series of transactions may not be used to establish compliance with the requirements of §91.865.

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#### **§ 91.865 Phased compliance for operators with base level.**

Except as provided in paragraph (a) of this section, each operator that operates an airplane under part 91, 121, 125, 129, or 135 of this chapter, regardless of the national registry of the airplane, shall comply with paragraph (b) or (d) of this section at each interim compliance date with regard to its subsonic airplane fleet covered by §91.801(c) of this subpart.

(a) This section does not apply to new entrants covered by §91.867 or to foreign operators not engaged in foreign air commerce.

(b) Each operator that chooses to comply with this paragraph pursuant to any interim compliance requirement shall reduce the number of Stage 2 airplanes it operates that are eligible for operation in the contiguous United States to a maximum of:

(1) After December 31, 1994, 75 percent of the base level held by the operator;

(2) After December 31, 1996, 50 percent of the base level held by the operator;

(3) After December 31, 1998, 25 percent of the base level held by the operator.